



Federal Communications Commission
Washington, D.C. 20554

April 25, 2012

Case Identifier: CGB-CC-0137

Abundant Faith Christian Center
Attn: Ron Rhone
2525 Taylor Avenue
Springfield, IL 62703

Re: *Faith for Today*

Dear Mr. Rhone,

This is to advise you that the Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission ("FCC") has reviewed the petition for exemption from the closed captioning rules filed by Abundant Faith Christian Center. CGB has found that the petition provides some, but not all, of the information needed for us to make a determination as to whether or not the FCC closed captioning requirements would be economically burdensome for you.

As an initial matter, your petition states that Abundant Faith Christian Center should be exempt based on Section 79.1(d)(8), which exempts from the closed captioning rules "locally produced and distributed non-news programming with no repeat value." This exemption applies to "programming that is locally produced *by the video programming distributor*, has no repeat value, is of local public interest, is not news programming, and for which the 'electronic news room' technique of captioning is unavailable" (emphasis added). We note that this self-implementing exemption is a narrowly focused exemption available to programming produced *by video programming distributors*. Video programming distributor is defined in Section 79.1(a)(2) as follows: "Any television broadcast station licensed by the Commission and any multi-channel video programming distributor as defined in Section 76.1000(e) of the rules, and any other distributor of video programming for residential reception *that delivers such programming directly to the home and is subject to the jurisdiction of the Commission*" (emphasis added). Because Abundant Faith Christian Center does not qualify as video programming distributor under the FCC's Rules, this exemption is not available to it.

Additionally, your petition states that *Faith for Today* should be exempt because it airs from 6:00 a.m. to 6:30 a.m. Section 79.1(d)(5) of the FCC's Rules provides that programming being distributed to residential households between 2 a.m. and 6 a.m. local time is exempt from captioning. As *Faith for Today* does not air within that period it would not appear to qualify for this exemption. You may wish to check with the station on which your program airs to determine whether its programming is distributed in more than one time zone. Section 79.1(d)(5) provides "[v]ideo programming distributors providing a channel that consists of a service that is that distributed and exhibited for viewing in more than a single time zone shall be exempt from closed captioning that service *for any continuous 4 hour time period they may select*, commencing not earlier than 12 a.m. local time and ending not later than 7 a.m. local time in any location where that service is intended for viewing." (Emphasis added.) If your video programming distributor distributes its programming

in more than one time zone, it may have selected a different four hour time period between 12 a.m. and 7 a.m., local time, during which its programming would be exempt from the captioning requirements.

Regarding the remainder of your petition, if you wish for the petition to receive further consideration for a closed captioning exemption, you must supplement your petition by providing us with the information described below, **by May 25, 2012**. The information we need is:

- Documentation of the Abundant Faith Christian Center's financial status sufficient to demonstrate its inability to afford closed captioning – for example, profit and loss statements or bank statement information. (This should not just include the resources devoted to or the costs associated with the television program at issue.);
- Verification that you have sought additional sponsorship sources or other sources of revenue for captioning, and that, even if these efforts have not successfully produced assistance, you do not otherwise have the means to provide captioning for the program(s); and
- Information on the impact that providing captions would have on your programming activities, for example, the extent to which its programming might not be shown if it is required to provide captions.

If you do not file this additional information **by May 25, 2012**, or the information that you provide is still not sufficient for us to make a determination, your petition will be dismissed without prejudice to re-filing **on July 24, 2012**, which is 90 days from the date of this letter, and you will be required to begin providing closed captions for your programming **on July 25, 2012**.

Here is some information to help you better understand how the FCC processes individual requests for captioning exemptions:

THE PETITION PROCESS – What a Petition Must Contain

The FCC's process for handling closed captioning exemption petitions has multiple steps. CGB is responsible for reviewing and deciding the merits of exemption petitions.

When CGB receives a petition, it must first determine whether a petition contains sufficient information to be placed on public notice (*i.e.*, released to the public) so that the public can comment on its merits. CGB looks to whether the petition contains up-to-date evidence, supported by affidavit, to show that it would be economically burdensome to provide closed captioning for the specific programming for which an exemption is sought. Section 713(e) of the Communications Act and the FCC's rules at 47 C.F.R. § 79.1(f)(2) define "economically burdensome" as "significant difficulty or expense." In determining whether the provision of closed captions will cause significant difficulty or expense, these provisions require the FCC to consider four factors: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.

In order to prove that the provision of closed captioning would impose an economic burden when applying the above four factors, a petition must contain the following:

1. Documentation of the petitioner's financial status sufficient to demonstrate the petitioner's inability to afford closed captioning – for example, profit and loss

- statements or bank statement information. (This should not just include the resources devoted to or the costs associated with the television program at issue);
2. Information about the costs associated with captioning the specific program(s) for which the petitioner is requesting an exemption. We note that your petition provided such information;
 3. Verification that the petitioner has sought closed captioning assistance (e.g., funding, services) from its video programming distributor; also the extent to which such assistance has been provided or rejected. We note that your petition provided such information;
 4. Verification that the petitioner has sought additional sponsorship sources or other sources of revenue for captioning, and that, even if these efforts have not successfully produced assistance, the petitioner does not otherwise have the means to provide captioning for the program(s); and
 5. Information on the type of the petitioner's operation(s) and the impact that providing captions would have on its programming activities, for example, the extent to which its programming might not be shown if it is required to provide captions.

Each petition should contain a specific list of names of the program(s) for which an exemption is being sought and it may describe other factors that the petitioner deems relevant to an exemption determination, as well as any alternatives that could be a reasonable substitute for the closed captioning requirement. Finally, each petition **must be accompanied by an affidavit** (i.e., a written sworn statement made under oath) supporting the petition. Your petition contained all of this information except for that listed in the fourth paragraph, above, and provided an affidavit.

We advise petitioners to carefully review the FCC's recently adopted *Memorandum Opinion and Order, Order, and Notice of Proposed Rulemaking in Anglers for Christ Ministries, Inc.*, which can be found at <http://transition.fcc.gov/cgb/dro/caption.html> and corresponding FCC rules (47 CFR § 79.1(f)(2)-(3)). These documents describe the requirements for obtaining an economically burdensome exemption in detail.

THE PETITION PROCESS – What Happens When a Petition is Sufficient or Deficient

If CGB determines that the petition provides *sufficient* information upon which to make a determination of whether or not to grant a closed captioning exemption, it will place the petition on public notice in CG Docket No. 06-181 at <http://fjallfoss.fcc.gov/ecfs/>. Members of the public will then have 30 days to file comments on and/or oppositions to the petition, after which the petitioner will have 20 days to respond. At the end of this timeframe, CGB will review the petition, along with information provided in any comments and responses received, to determine whether providing captioning would be economically burdensome for the petitioner. While a petition is pending, the program at issue does not need to be captioned.

If, however, CGB determines that the petition and supporting documents do not provide sufficient information needed for the FCC to make a determination as to the merits of its petition, the petition will be considered *deficient* and CGB will not place the petition on public notice.

YOUR PETITION

As noted above, CGB has determined that the petition that you filed with the FCC on December 8, 2011, is deficient, because although it provided some information, it failed to provide

sufficient information for us to make a determination as to whether the provision of closed captioning would be economically burdensome for you. We therefore conclude that your petition is not sufficient to be placed on public notice. As mentioned above, if you wish to receive further consideration for a closed captioning exemption for your programming, you must supplement your petition by filing the information listed in the first paragraph of this letter **by May 25, 2012**, which is 30 days from the date of this letter. If you do not file this additional information by that date or the information that you provide is still deficient, your petition will be dismissed without prejudice to re-filing, and you will be required to begin providing closed captions for this programming **on July 25, 2012**.

If you decide to supplement your petition, your petition, as well as any supporting financial information provided, will be available for public inspection. If your petition contains confidential information, you may request "confidential treatment," *i.e.*, that it not be shared with members of the public, pursuant to FCC rules. *See* 47 C.F.R. § 0.459. If you provide information for which you want "confidential treatment," you must also submit a second version of your petition with the confidential information redacted (this must be submitted *along with* your request for confidential treatment). The redacted version will be publicly disclosed. If your request for confidential treatment is granted, the "public version" of your petition must still contain sufficient documentation to support your claim that closed captioning would be economically burdensome. This documentation is needed so that the public understands the basis for your exemption request and can comment on its merits.

If you have additional questions pertaining to the filing of an exemption request, please contact the FCC's Disability Rights Office at captioningexemption@fcc.gov. Thank you.

Roger Holberg
Attorney, Disability Rights Office
Consumer and Governmental Affairs Bureau

Instructions for Filing a Supplement to a Closed Captioning Exemption Petition

You must send the FCC an original and two (2) copies of the information supplementing your previously filed petition for a closed captioning exemption. Filings must be sent by hand or messenger delivery, commercial overnight courier, or by first class or overnight U.S. Postal Service mail.

For U.S. Postal Service mail, including Express Mail, Priority Mail, and First Class Mail, please use the following address:

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
445 12th Street, SW
Washington, DC 20554

For commercial overnight mail, such as Federal Express or United Parcel Service, please use the following address:

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
9300 East Hampton Drive
Capitol Heights, MD 20743

Electronic filing and faxes of petitions will not be accepted.

Please wait *at least two weeks* before contacting FCC staff to make inquiries about whether your petition has been received. **You must include the case identifier number at the top of the acknowledgement you previously received, which is also at the top of this letter, in all correspondence with the FCC regarding your petition.**